

# EXHIBIT “K”

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April 23, 2007

Peter Alan Holland  
Senior Investigator  
United States Equal Employment  
Opportunity Commission  
33 Whitehall Street  
New York, New York 10004

By fax: 336-3790

re: Paola Colon v. Graf Repetti & Co., LLP

Dear Mr. Holland:

My client Paola Colon invokes the following federal statutes as the basis for her discrimination claim:

1. Section 105 (a) of the Family and Medical Leave Act.

The respondents interfered with, restrained, or denied the exercise of or the attempt to exercise Ms. Colon's rights to stay home with her baby (105 (a)(1)). The respondents also discharged and discriminated against Ms. Colon for opposing a practice made unlawful by the act: prohibiting her from staying home with her child (105 (a)(2)).

2. Section 703 (a)(1) of Title VII of the Civil Rights Act of 1964,

The respondents discharged Ms. Colon and otherwise discriminated against her with respect to the terms, conditions or privileges of her employment because of her sex.

3. Section 102 (a) of Title I of the Americans with Disabilities Act of 1990.

The respondents discriminated against Ms. Colon with respect to her maternity status in regard to her discharge and other terms, conditions and privileges of employment.

Please let me know if you require any other information.

Very truly yours,

Roy A. McKenzie

Document Retention Notice Pursuant to Charge Of Discrimination:

YOU ARE HEREBY GIVEN NOTICE NOT TO DESTROY, CONCEAL OR ALTER ANY PAPER DOCUMENTS OR ELECTRONIC DATA INCLUDING DATA GENERATED BY OR STORED ON ANY COMPUTER OR COMPUTER STORAGE MEDIA (E.G., HARD DISKS, FLOPPY DISKS, BACKUP TAPES) THAT RELATE TO THE CLAIMS AND DEFENSES IN THE ACCOMPANYING CHARGE OF DISCRIMINATION. FAILURE TO COMPLY WITH THIS NOTICE, EITHER THROUGH INTENTIONAL ACTS OR NEGLIGENCE, CAN RESULT IN SANCTIONS FOR SPOILATION OF EVIDENCE. SANCTIONS COULD INCLUDE MONETARY PENALTIES AND OTHER COURT-IMPOSED ACTION.

A. Paper Documents to be Preserved: Hard-copy information which should be preserved includes, but is not limited to:

- 1 Personnel files;
- 2 Employee data;
- 3 Payroll information;
- 4 Personnel policies, procedures, and regulations;
- 5 Letters, memoranda and notes;
- 6 All complaints of discrimination or unfair treatment;
- 7 All documents related to internal investigations; and
- 8 All other documents containing information relevant to the subject matter of the charge of discrimination.

B. Electronic Data to be Preserved: Electronic information which should be preserved includes, but is not limited to:

- 1 Electronic mail (e-mail) and information about e-mail (including message contents, header information and logs of e-mail system usage) sent or received which is relevant to the subject matter of the charge of discrimination;
- 2 Databases (including all records and fields and structural information in such databases), containing any reference to or information about the human resources or personnel information of your employees;
- 3 Word processing files including prior drafts, "deleted" files and file fragments containing information about or relevant to the subject matter of the charge of discrimination;
- 4 Electronic data files and file fragments created or used by electronic spreadsheet programs, where such data files contain information relevant to the subject matter of the charge of discrimination; and
- 5 All other electronic data containing information relevant to the subject matter of the charge of discrimination.

## Guidelines for an Effective Position Statement

### How the EEOC uses employer position statements

EEOC is an objective fact finding agency. We have heard what the Charging Party has to say about what happened and why Charging Party believes it happened. Now we encourage you to provide a detailed response to these allegations. A well drafted and supported position statement can help us to accelerate the investigation and may limit requests for further information.

### Is a brief statement drafted by a representative without supporting evidence sufficient?

No; an effective position statement should be accompanied by supporting evidence which authenticates the truthfulness and accuracy of the response and should be sworn to by a company official. You should provide any evidence which supports your position. Our investigators are trained to review and analyze evidence, and they recognize that a lawyer's or company official's conclusions about the motives, intentions, or events do not constitute the evidence needed to resolve most cases. While we encourage you to provide us with any legal defenses you may have, we also need to have you present your evidence of the facts relating to the merits of the charge.

### What should a position statement include?

At a minimum, it should include specific, factual responses to every allegation of the charge. The position statement should clearly explain the respondent's version of the facts and identify the specific documents and witnesses supporting the position. Keep the following points in mind as you prepare the response to the charge:

- ✓ Address each alleged discriminatory act and your position regarding it. Indicate which of the Charging Party's allegations are disputed.
- ✓ Provide a description of the company; include legal name and address, name, address, title and phone number of the person responsible for responding to the charge, primary function of the business, and the number of employees. A staffing or organizational chart is also useful in helping to focus the investigation.
- ✓ Provide copies or descriptions of any applicable practices, policies or procedures.
- ✓ Identify any other individuals who have been similarly affected by these practices, policies, or procedures; describe the circumstances in which the practices, policies, or procedures have been applied.
- ✓ Explain why individuals who were in a similar situation to the Charging Party were not similarly affected.
- ✓ Identify official(s) who made decisions or took action relating to the matter(s) raised in the charge.
- ✓ Be specific about date(s), action(s) and location(s) applicable to this case.
- ✓ Provide copies of internal investigations of the alleged incidents or grievance hearing reports.
- ✓ Inform EEOC if the matter has been resolved or can be easily resolved; if it can be resolved, please indicate your proposal for resolution.

An effective position statement is clear, concise, complete, responsive and is sworn to by a company official.

### How much time is normally allowed for preparation of a position statement?

Two weeks is normally allowed for responding to the charge. A brief extension of time may be allowed in particular cases where extensive interviews need to be conducted or documents reviewed, but only when it is clear that the employer is working in good faith to supply all of the necessary information.